

# The Orissa Gazette



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### LABOUR & EMPLOYMENT DEPARTMENT

#### NOTIFICATION

The 6th January 2011

No. 174-11/1 (SS)-11/2003-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th April 2010 in Industrial Dispute Case No. 31/2003 and Industrial Disputes Case No. 12 of 2004 of the Presiding Officer, Labour Court, Sambalpur to whom the industrial dispute between the management of M/s. Rourkela Steel Plant, Rourkela, Dist. Sundargarh and their workman Shri M. R. Singh, Sr. Crane Operator, C/o. General Secretary, Ispat Labour Union, Qrs. No. G/294, Sector-19, Rourkela, District Sundargarh was referred to for adjudication is hereby published as in the Schedule below :

#### SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR  
INDUSTRIAL DISPUTE CASE No. 31 OF 2003 AND  
INDUSTRIAL DISPUTE CASE No. 12 OF 2004

The 28th April 2010

Present :

Miss Sarojini Mahapatra, M. A., LL. B.,  
Presiding Officer,  
Labour Court, Sambalpur.

Between :

The Management of M/s. Rourkela Steel Plant, Rourkela,  
Dist. Sundargarh. . . . . First-party Management

And  
Their Workman, Shri M. R. Singh, Sr. Crane Operator,  
C/o. General Secretary, Ispat Labour Union,  
Qrs. No. G/294, Sector-19, Rourkela,  
Dist. Sundargarh. . . . . Second-party Workman

## Appearances :

Shri L. K. Nayak, Dy. Manager (Law), . . . For the First-party Management  
R. S. P., Rourkela.

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Shri N. K. Mahanty, General Secretary, . . . For the Second-party Workman  
 Ispat Labour Union, Rourkela.

## AWARD

This matter arises out of the reference made by the Government of Orissa, Labour & Employment Department under sub-section (5) of Section 12 read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 in Memo No. 6254 (5), dated the 28th June 2003 and as per the modified reference in Memo No. 6249 (5), dated the 17th July 2004 for adjudication of the modified schedule question :

"Whether the action of the management of Rourkela Steel Plant, Rourkela in cancelling the Quarters and recovering house rent at the market rate @ Rs. 1,614.00 P. M. from the salary of Shri M. L. Singh, P.R. No. 19596, Sr. Crane Operator, Plate Mills (OPM) with effect from the 1st February 2001 and at the same time inflicting punishment over the same charges by way of reducing basic pay by two stages from Rs. 9,657 P. M. to Rs. 9,285 P.M. vide Order No. 653/1573, dated the 4th April 2000 of the Assistant General Manager, Plate Mills (OPM) is legal and/or justified ? If not, what relief Shri M. R. Singh is entitled to ?"

2. As per the statement of claim of the workman Shri M. R. Singh, P.L. No. 19596, he was working as Senior Operator (Cranes) in the Plate Mill (Operator) of Rourkela Steel Plant of Steel Authority of India Ltd., Rourkela. This industrial dispute arose out of the unfair, arbitrary and illegal and *mala fide* action of cancellation of the allotment of Qrs. No. C/218, Sector 14, Rourkela and recovery of house rent at the market rent @ of Rs. 1,614.00 P. M. from the salary of the second-party workman with effect from dated the 1st February 2001 vide office Order No. 5286-TS/I & E/C-218/Sec.-14/1988, dated the 16th November 2000 issued by the Executive (T & S) I & E. Town Services Department of the first-party management. The management reduced two basic pay by two stages from Rs. 9,657.00 P. M. to Rs. 9,285.00 P. M. vide Office Order No. 653/1573, dated the 4th April 2000 issued by the Assistant General Manager, Plate Mill (Operation) of the first-party management. The General Secretary of Ispat Labour Union raised the Industrial Dispute before the Deputy Labour Commissioner for conciliation and amicable settlement. But the management did not turn up. The management has cancelled the allotment of Qrs. No. C/218, Sector-14 earlier allotted to the second-party workman in violation of principles of natural justice and in contravention of the provision of Section 9 (A) of Industrial Dispute Act, 1947. The Executive (TS) I & E Town Services of the first-party management issued a showcause notice vide Ref. No. TS/I & E/C/218/ Sector-14/4918-19, dated the 30th October 2000. The second-party, workman submitted the reply on dated the 5th November 2000. The first-party management cancelled the allotment of Qrs. No. C/218, Sector-14 on dated the 16th November 2000, which is after fifteen days of the date of showcause notice violating the provision of Section 9 (A) of Industrial Dispute Act which requires twenty-one days notice period as allotment of company quarters is a condition of service of the second-party workman. The Management did not consider the last inspection

report dated the 27th November 2000 submitted by the Estate Supervisor (TS) of the first-party management. The second-party applied before the Appealing Authority on, dated the 3rd March 2001 and 6th April 2001 but there is no effect. The Chief Personnel Manager (PM) of the first-party management vide his letter, dated the 21st September 2001 gave a false information to the D. L. O., Rourkela that the action has been taken against the second-party workman for violation of the relevant provisions of the House Allotment Rules and Standing Orders of the Company.

The domestic enquiry was conducted by the management on the following allegations. The Quarters No. C/218, Sector-14 was allotted to the workman vide Allotment Order No. SC/670, dated the 6-11-1987 which was occupied by the second-party workman with his family members on dated the 10th November 1987. He unauthorisedly installed three numbers of Dish Antennas in the said quarters premises for commercial purpose and provided Cable TV connection to the neighbouring quarters in the locality violating the House Allotment Rules for which the allotment of the quarters in his favour was cancelled. The workman was directed to handover the physical possession of the quarters within fifteen days of date of issue of such office order. In spite of the said order, as the workman has not vacated the quarters and confined in occupation of the same unauthorisedly with effect from the dated 16th November 2000, it amounts to an act of misconduct as per the Clause No. 28 (XIX) (a) of the Standing Order of the Company.

Further it is alleged in the statement of claim of the workman that the A. G. M., Town Services, SAIL, Rourkela Steel Plant of the first-party management wrote to the Sub-Collector, Panposh vide letter, dated the 4th November 2000 to ascertain if the second-party workman and three employees have been operating Cable T. V. unauthorisedly from the allotted quarters in the Steel Township, Rourkela. The first-party management brought allegations against this workman alongwith the other employees before Sub-Collector, Panposh. But the management has cancelled the allotment of quarters No. C/218, Sector-14 and initiated disciplinary proceeding against the second-party workman without waiting reply of the Sub-Collector, Panposh. On dated the 27th November 2000 the last inspection was held and found that the antennas were removed from the quarters of the second-party workman. The second-party workman was waiting the decision for restoration of the allotment of quarters.

The second-party workman placed an appeal to the Disciplinary Authority against the findings of the Enquiry Officer but there is no effect. The second-party workman completely denied the allegations made against him by the management. So the second-party workman prayed, (a) to quash the finding of the Enquiry Officer against the Charge-sheet No. 653, dated the 20th December 2000, (b) He also prayed to set aside the order of cancellation of the quarters No. C/218, Sector-14, Rourkela, dated the 16th November 2000 issued by the first-party management and refund excess rent and other charges recovered against normal rent and other charges, (c) He also prayed to set aside the order of punishment No. 653/1573, dated the 4th April 2002 issued by the first-party management and the basic pay of the second-party workman is restored to Rs. 6,957.00 on dated the 4th April 2003 and the two increments due may be paid to him with effect from the dated 4th April 2002.

3. The first-party management appeared and filed written statement. As per the written statement the reference is bad in law due to non-observance of principles of natural justice and as such not maintainable. The first-party management has a House Allotment Rules which governs

the mode, the manner of allotment and its use, charges of quarters, the procedure of cancellation of allotment of quarters, the action for unauthorised use/occupation of quarters and realisation of rent etc. against the quarters allotted by the Company to an employee. As per the House Allotment Rules subject to availability of the quarters, an employee is permitted to stay in a quarters as a licensee by the management during the tenure of employment in the Company. The second-party workman accepted the terms and conditions of the allotment order and took occupation of the quarters on dated the 10th November 1987. The House Allotment Rules as amended from time to time which defines the eligibility for allotment of residential quarters stipulated the terms and conditions under which such allotment can be cancelled. There are some provisions of allotment and conditions leading to cancellation of allotment of quarters and realisation of rent and electricity at the market rent.

Further, it is alleged that on dated the 28th October 2000 on spot verification by the first-party management, it was found that the second-party workman Shri M. R. Singh has installed Dis Antenna in his quarter No. C/218, Sector-14 and was unauthorisedly operating Cable T. V. network for commercial purpose. Since the second-party workman was using the said quarters improperly violating the clause 2.10 (ii) of the House Allotment Rules of the Company, he was issued with showcause notice on dated the 30th October 2000. The reply to the showcause found not satisfactory. Then the management cancelled the allotment of quarters as per Clause 14.0 (iv) of the House Allotment Rules, 1995 and office order was issued on dated the 16th November 2000 by the first-party cancelling the aforesaid allotment order. He was directed to surrender the vacant position of the said quarters within fifteen days time. Since the licence accorded to Shri Singh was cancelled due to improper use of quarters with effect from 16-11-2000. Shri Singh was liable to pay market rent as per rules of the Company. As the second-party workman did not vacate the said quarters within fifteen days of its cancellation and remained in unauthorised occupation of the quarters which is a misconduct as per the standing order of the Company. Charge-sheet was issued to him on 20-12-2000. The domestic enquiry was conducted and copy of the domestic Enquiry was supplied to the second-party workman. After going through the entire proceedings, finding of the Enquiry Committee as well as on the representation filed by the workman, the Disciplinary Authority agreed with the finding of the Enquiry Committee and imposed the punishment of reduction of pay to lower stages from Rs. 9,657.00 to Rs. 9285.00 vide Order, dated the 4th April 2002. The appellate authority after due consideration disposed of the said appeal and accordingly intimated to the second-party workman. So the management prayed that the second-party workman is not entitled to get any relief.

4. Out of the pleadings of the parties the following issues have been framed for adjudication of the case—

#### *ISSUES*

- (i) "Whether the action of the management of Rourkela Steel Plant, Rourkela in cancelling the quarters and recovering house rent at the market rate @ Rs. 1,614.00 P.M. from the salary of Shri M. R. Singh, PL No. 19596, Sr. Crane Operator, Plate Mills (OPM) with effect dated the 1st February 2001 and at the same time inflicting punishment over the same charges by way of reducing basic pay by two stages from Rs. 9,657.00 P.M. to Rs. 9,285.00 P.M. vide Order No. 653/1573, dated the 4th April 2000 of the Assistant General Manager, Plate Mills (OPM) is legal and/or justified ?

- (ii) If not, to what relief the workman Shri M. R. Singh is entitled ?"
- (iii) Whether the reference is maintainable ?
- (iv) Whether the domestic enquiry conducted by the management of Rourkela Steel Plant is fair and proper ?"

5. The issue No. iv has already been taken up and it was found as per order, dated the 10th December 2009 that the domestic enquiry conducted by the management is unfair and improper.

6. In order to establish the case of the management, the management has altogether examined two witnesses. M. W. 1 Shri Chandra Sekhar Mahapatra, Manager (Personnel), Steel Authority of India Limited, Rourkela Steel Plant. M. W. 2 Nirod Kumar Jena, Estate Supervisor in Town Service Department, Rourkela Steel Plant.

The management has also filed some documents which are marked as Ext. 1 to Ext. 24

7. On behalf of the workman, the workman M. R. Singh examined as W. W. 1. W. W. 2 Binod Kumar Singh, the son of M. R. Singh the workman. W. W. 3 Kailash Kumar Swain, Server Administrator of one Company.

The second-party workman also filed some documents which are marked as Ext. A to Ext. F.

#### FINDINGS

8. *Issue Nos. (i), (ii) & iii*—Admittedly the second-party workman M. R. Singh, PL No. 19596 was working as Senior Operator, Cranes in the Plate Mill (Operator) of Rourkela Steel Plant /Steel Authority of India Limited. The workman claims that this present dispute arises out of the unfair/arbitrary, illegal and *mala fide* action of cancellation of allotment of quarters No. C/218, Sector-14, Rourkela and recovery of house rent at the market rent @ Rs. 1,614.00 P.M. from the salary of the second-party workman with effect from dated the 1st February 2001 vide office Order No. TS/I & E/C-218/Sec.-14/5286-88, dated the 16th November 2000 issued by the Executive (T & S) I & E Town Services Department of the first-party management.

9. M.W. 1 was working as an Executive in Town Services Department in the year 2000 and looking after the inspection and enforcement Section. As per his evidence the workman M. R. Singh was allotted Qrs. No. C/218 in Sector-14 for occupation of himself and his family members vide Allotment Order, dated 6th November 1987. He took the occupation of the quarters on dated the 10th November 1987 vide occupation report, dated the 10th November 1987. M.W. 1 alongwith Shri D. Singh, Estate Supervisor inspected the said quarters and found the second-party workman was present in the quarters. It was noticed that Shri M. R. Singh the second-party workman had installed three numbers of big Dish Antenna in his quarters premises out of which two of such antenna were installed on the roof top (Terrace) and one in the back courtyard/premises. It was also detected that the second-party workman had provided cable connections to the residence of 'C' Block and some quarters of 'B'-Block of Sector-14 and using it for commercial purpose. The copy of the inspection report, dated the 28th October 2000 is marked as Ext. 15. Simultaneously F. I. R. was lodged before the concerned Police Station. Ext. 11 is the copy of F. I. R. As per the evidence of M.W. 1 installation of three numbers of Dish Antenna in the said quarters premises and

land adjacent thereto and providing Cable T.V. connection without written permission of the authority amounted to additions and alterations not originally provided to the employee at the time of allotment which constituted as improper use of such quarters in accordance with Clause 2. 10 of the House Allotment Rules of the Company. As alleged the second-party workman although in the past had approached the management vide his application, dated the 13th August 1994 to instal a Dish Antenna in his quarters premises on co-operative basis for extending Cable T. V. facility to his locality but he was not permitted by the management. While submitting the reply on 5-11-2000 to the showcause notice, the second-party workman admitted that he had installed the Antenna for his own use only.

10. The said quarters was again inspected on 14-11-2000 jointly by Shri G. N. Mishra, Deputy Manager (I & E) and Shri N. K. Jena, Estate Supervisor and after inspection submitted a report on 14-11-2000. They have reported as per the previous report and there was no change in the status after first inspection.

So, as the second-party workman has violated the provisions of House Allotment Rules, the allotment of quarters No. C/218, Sector-14 was cancelled on 16-11-2000 and he was directed to vacate the quarters within fifteen days of issue of the cancellation order. After cancellation, the occupation of the quarters of the second-party as alleged was treated as unauthorised occupation. It is further alleged from the evidence of M. W. 1 that the said quarters was again inspected on 27-11-2000 and it was found that although Shri Singh the second-party workman had removed the Dish Antenna from the quarters but he was providing cable connection to the locality through CAT Vision. Since unauthorised occupation of the Company's quarters is misconduct under the standing order, a charge-sheet was issued to the second-party workman on 20-12-2000. Accordingly, the second-party workman submitted his reply denying the charge. The second-party workman submitted an appeal, dated the 7th April 2002 which was disposed of by the authority and he has been communicated with the decision vide Order, dated the 25th May 2002.

11. M. W. 2 Nirod Kumar Jena at the relevant date and time was working as Estate Supervisor in Town Services Department. He has admitted with the evidence of M. W. 1 so far as the case of the management is concerned. M. W. 1 in his cross-examination stated that he had inspected the neighbouring quarters as well as other quarters to disclose that they have taken the T.V. connection from the house of Shri M. R. Singh but he is unable to disclose the name of neighbours and the owners of the other quarters nor cited them as witness in this case. There is no documents towards collection of money by the second-party workman M. R. Singh who denied the allegations made against him. M. W. 1 has not clarified regarding the result of the F. I. R. which was filed against M. R. Singh as alleged. M. W. 1 in his cross-examination stated that on dated the 4th July 2001, Sub-Collector, Panposh submitted a written reply that there was no Dish Antenna existing in the quarters of Mr. M. R. Singh, the second-party workman. On dated the 14th November 2000, the second inspection was conducted by Mr. N. K. Jena, Estate Supervisor and Shri G. N. Mishra, Deputy Manager, T. & S. I. & E. on dated the 27th November 2000, the third inspection was conducted. As per the contents of the Ext. 20 (Inspection Report), his son (W. W. 2) was present at the time of inspection who disclosed before them that they are distributing the connection through CAT Vision. It was detected by them that the second-party workman used the CAT Vision to supply the Cable T.V. connection and the management claim that it is irregular as per the provision. As alleged from

the evidence of M. W. 2, he inspected the nearby quarters to which Cable T. V. connection was connected but M. W. 2 failed to remember whether the another twin quarters No. C/217 occupied by one Mr. Mohanta who was charge-sheeted with a similar allegations. He also failed to say who had inspected that quarters C/217. It is apparent from his evidence that there are two Dish Antennas at the roof of the quarters of the second-party workman. They did not ascertain who had installed that Antennas in the said place. M. W. 1 and M. W. 2 has not stated in their evidence regarding quality and Company of the Dish Antennas nor the apparatus of the CAT Vision. In the instant case although Shri D. Singh, Estate Supervisor and other authorities of the management inspected the said quarters from time to time were not examined by the management.

12. Let us scrutinise the evidence of the workman. Admittedly, he was allotted with a Qrs. No. C/218 in Sector-14. Allotment order in respect of said quarters was cancelled by the management vide order, dated the 16th November 2000 and he was charge-sheeted by the management vide Order No. 653, dated the 20th December 2000 on the allegation of occupying the said quarters unauthorisedly. He had received the copy of the charge-sheet which is already examined by the management Ext. 1. As per the evidence of W. W. 1, he had installed only Dish Antenna in his quarters for his own use. It is further alleged from his evidence that he removed the Antenna which he had installed in his house for his personal use and intimated this fact to the management before initiating the disciplinary proceeding against him. On 27-11-2000, the management had inspected his quarters and the concerned authority submitted report to the effect that there was no Dish Antenna installed in his quarters. Ext. 5 is the said findings of the enquiry. As alleged from the evidence of W. W. 1, the Enquiry Officer submitted a report that the Dish Antenna installed in the said quarter was not used for commercial purpose. However, W. W. 1 and W. W. 2 denied the allegations made against the workman. W. W. 1 made a representation on 27-2-2002 which is marked as Ext. A. As per the evidence of W. W. 2, on their request, Antenna has been installed by CAT Vision on payment to provide extra channel like Star Sports which was not provided by them in the channel provided through Cable T. V. connection by CAT Vision as per the agreement with the management of Rourkela Steel Plant. As alleged W. W. 2 is working on behalf of CAT Vision as their field maintenance worker and giving new lines and maintaining old lines and restoring connections in case dislocated by miscreants. He has produced the appointment letter as a Field Maintenance worker for CAT Vision which is marked as Ext. E. However, W. W. 1 and W. W. 2 denied all the allegations made against the second-party workman W. W. 1.

13. So in order to clarify his case, he examined one Kailash Kumar Swain W. W. 3 who was working as Assistant Manager in M/s. CAT Vision Products Limited and served in it with effect from June 1995 to 31st March 2001. As alleged during his service period in M/s. CAT Vision Products Ltd. he was posted at Rourkela as Assistant Manager, Maintenance. Ext. F is the letter, dated 31st May 1995 sent by Sudhir Damodaran, Director regarding his appointment as Project Engineer Trainee placed at Rourkela. As alleged his duty was to look after maintenance of CAT Vision Transmission and supplied of Cable lines to quarters including connection of new lines to the quarters in the entire Rourkela Steel Township as per the agreement signed in between the Management of M/s. Rourkela Steel Plant and M/s. CAT Vision Products Limited. As alleged CAT Vision Products Limited was the only party to provide and supply Cable T. V. facility to the residence of all quarters in Rourkela Steel Township. Shri Binod Kumar Singh, W. W. 2 son of M. R. Singh the second-party workman Qrs. No. C/218, Sector-14 was one of the technician out of the technical

staff and he was posted under W. W. 3 to look after Cable T. V. connection to residential quarters in Rourkela Steel Township. M/s. CAT Vision had installed injector in the quarters for amplification of T. V. image and audio clarity. As alleged from his evidence, one such injector was also installed by M/s. CAT Vision Products Limited inside the quarters of second-party workman Mr. Singh who was a paid customer of CAT Vision Products Limited, Rourkela. This part of evidence corroborates to the evidence of W. W. 2. Besides that, W. W. 2 being a staff of M/s. CAT Vision was provided a free connection and also a Dish Antenna. As alleged during the tenure of W. W. 3 with effect from 5-6-1995 to 31-3-2001 neither Shri M. R. Singh, the allottee of Qrs. No. C/218, Sector-14, Rourkela Steel Plant, Rourkela nor his son W. W. 2 Binod Kumar Singh has provided separate Cable T. V. connection to neighbouring quarters through Dish Antenna or through M/s. CAT Vision Products Ltd., Rourkela on commercial basis. The CAT Vision has installed eight injectors. W. W. 3 was not possessing with any documents regarding CAT Vision injectors. The representative of the Management has not put any questions to this witness to falsify his evidence. So far as the connection of the CAT Vision is concerned, the evidence of W. W. 1 and 2 corroborates the evidence of W. W. 3.

14. The learned representative of the management submitted that by installing three numbers of Dish Antennas and distributing the connection of Cable T. V. line to different quarters in Sector-14, the second-party workman violated the standing order of the management. Admittedly, no other persons who had taken the Cable T. V. connection from the quarters of workman has not been examined by the management. On the otherhand, the evidence of W. W. 1, 2 and 3 should not be wiped out since Binod Singh was working in the CAT Vision and resided with his father in the said quarters. It is very clear from the evidence of the W. W. 3 that one such injector was installed by M/s. CAT Vision Products Limited inside the quarters of M. R. Singh. So in the facts and circumstances, it can be said that there is no misconduct lies with the second-party workman Shri M. R. Singh. Shri Singh has never violated any standing orders of the Company.

15. The learned representative on behalf of the management relied on the reported decision 1973-I-LLJ (SC)-278-the workman of M/s. Firestone Tyre & Rubber Co. of India-Vrs-The Management & others.

In point 9—Once the misconduct is proved either in enquiry conducted by an employer or by evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in case where the punishment is so harass as to suggest victimization. As per the said decision in point No. 3. When a proper enquiry has been held by an employer and the finding of misconduct is plausible conclusion flowing from the evidence adduced at the said enquiry, the Tribunal has no jurisdiction to sit any judgment over the decision of the employer as an Appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimisation, unfair labour practice or *mala fide*.

16. The learned representative on behalf of the workman submitted that the case of the workman as well as the evidence of W. W. 3 should be scrutinised in a careful manner and the fact in issue which is relevant should be taken as a fact. However, after going through the evidence on

records as well as documents, it can be held that second-party workman has not violated any standing order of the management and the management has taken drastic view against the second-party workman. So the action taken by the management is not legal nor justified. Accordingly, this reference is maintainable and the workman is entitled to get the relief in this case. Hence, the following Award.

#### AWARD

The reference is answered on contest but without any cost. The action of the management of Rourkela Steel Plant, Rourkela in cancelling the quarters and recovering house rent at the market rate @ Rs. 1,614.00 P. M. from the salary of Shri M. R. Singh, PL No. 19596, Sr. Crane Operator, Plate Mills (OPM) with effect from 1-2-2001 and at the same time inflicting punishment over the same charges by way of reducing basic pay by two stages from Rs. 9,657.00 P. M. to Rs. 9,285.00 P. M. vide Order No. 653/1573, dated the 4th April 2000 of the Assistant General Manager, Plate Mills (OPM) is not legal nor justified. Hence, the second-party workman Shri M. R. Singh should be returned back his excess rent which is recovered from him against the normal rent and other charges by the management.

Dictated and corrected by me.

SAROJINI MAHAPATRA  
28-4-2010  
Presiding Officer  
Labour Court, Sambalpur

SAROJINI MAHAPATRA  
28-4-2010  
Presiding Officer  
Labour Court, Sambalpur

By order of the Governor  
P. K. PANDA  
Under-Secretary to Government